

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 7-2-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that physical therapy evaluation, therapeutic exercises, electrical stimulation unattended, work hardening, FCE, and medical disability exam from 11-19-03 through 1-14-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service are denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 17th day of September, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

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NOTICE OF INDEPENDENT REVIEW DECISION

September 10, 2004

Re: IRO Case # M5-04-3790

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Letter from carrier's attorney 8/9/04
4. Peer review 1/14/04
5. MDR request 7/1/04
6. Letter of medical necessity 5/14/04
7. TWCC 69 1/14/04
8. IR report 1/15/04
9. FCE reports 12/12/03, 1/8/04
10. D.C. initial report 10/22/03
11. MRI report lumbar spine
12. Work hardening notes
13. Psychology group notes
14. active rehab slips
15. Rehab records and treatment notes
16. Notice of disputed compensability of a body part 12/1/03
17. Reports 10/15/03

History

The patient injured her lower back in ____ when the 18-wheeler she was driving was rear-ended by another 18-wheeler, and then was knocked into an 18-wheeler in front of her. She was evaluated at a hospital, and then at a clinic where she was prescribed medication and physical therapy. The patient then changed her treating doctor, and she underwent a course of physical therapy, chiropractic treatment and work hardening.

Requested Service(s)

Physical therapy evaluation, therapeutic exercises, electrical stimulation unattended, work hardening, FCE, med disability exam 11/19/03 – 1/14/04

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

The patient had an adequate trial of chiropractic treatment prior to the dates in dispute. Her VAS for pain was 5/10 on her initial visit with the treating D.C. on 10/15/03. On 12/24/03 her VAS was 7/10, after one month of the work hardening program. At that time the patient complained of sharp, constant lower back pain radiating into her left lower extremity. These are indications that both the work hardening program and the therapy before the work hardening program failed. The patient's VAS was at 5/10 on 1/8/04, just one week before she was placed at MMI.

The D.C.'s treatment notes prior to the dates in dispute were poor, and lacked objective, quantifiable findings not only to support treatment, but also to support the need for an FCE and work hardening program. The need for the work hardening program was based on the FCE, which the D.C. stated indicated that the patient was at the light physical demand level. The patient, however, demonstrated more than enough ability to return to work. The patient's subjective complaints before the FCE do not match up with the findings on FCE. How a patient can complain of pain (VAS 5-7/10) and still exceed the necessary capacity to perform the lift test is difficult to understand.